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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



B5

Date: **AUG 22 2012**

Office: TEXAS SERVICE CENTER

FILE: 

IN RE:

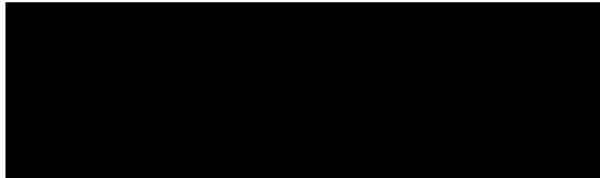
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected or, in the alternative, summarily dismissed.

The petitioner is a life insurance financial services company. It seeks to employ the beneficiary permanently in the United States as a core platform-application developer. The director determined that the petitioner abandoned the petition by failing to reply to a Request for Evidence and noted that the beneficiary did not satisfy the minimum level of education stated on the labor certification.

In pertinent part, section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. An advanced degree is a United States academic or professional degree or a foreign equivalent degree above the baccalaureate level. 8 C.F.R. § 204.5(k)(2). The regulation further states: "A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree." *Id.*

As noted above, the director summarily denied the petition due to abandonment because the petitioner failed to respond to a Request for Evidence. The director stated in his decision that, while there is no right to an appeal from an abandonment denial, the petitioner may, *inter alia*, file a motion with the United States Citizenship and Immigration Services (USCIS). The official having jurisdiction over a motion is the official who made the latest decision in the proceeding, i.e., the Texas Service Center director. 8 C.F.R. § 103.5(a)(ii).

Nevertheless, on July 11, 2011, the petitioner filed a Form I-290B, Notice of Appeal or Motion, and indicated in part 2 that it is "filing an appeal." The petitioner did not file a motion. However, as correctly noted by the director, the petitioner may not appeal a denial due to abandonment. 8 C.F.R. § 103.2(b)(15). Accordingly, the AAO must reject the appeal for lack of jurisdiction. See 8 C.F.R. § 103.3.

Alternatively, the AAO would summarily dismiss the appeal if it had jurisdiction. On appeal, counsel merely stated that the beneficiary "possesses the equivalent of a U.S. Bachelor's degree." Counsel stated that a brief and additional supporting documents would be submitted within 30 days of the filing of the appeal.

Counsel dated the appeal July 7, 2011. As of this date, more than 13 months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

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Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The appeal would therefore be summarily dismissed.

ORDER: The appeal is rejected.